

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan For Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

**EX PARTE FILING OF THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
IN SUPPORT OF THE PETITION OF  
LAUREL HIGHLAND AND YUKON-WALTZ TELEPHONE COMPANIES  
FOR A LIMITED WAIVER OF 47 C.F.R. § 51.917(b)(4)**

The Pennsylvania Public Utility Commission (Pa. PUC) files this brief Ex Parte Filing (Pa. PUC Ex Parte) addressing the FCC's Public Notice (FCC Laurel Highland Notice) in the above-listed dockets issued on May 2, 2013 regarding a Petition of Laurel Highland and Yukon-Waltz (the Laurel Highland Petition) at DA 13-980. The FCC Laurel Highland Notice sought comment on the Laurel-Highland Petition for two Pennsylvania rural local exchange carriers (Pa. RLECs) owned by Laurel Highland Total Communications, Inc.(Pa. Company). The Comment and Reply Comment deadlines set were June 3, 2013 and June 17, 2013, respectively.

The Pa. PUC Ex Parte supports the Laurel Highland Petition for waiver. The Pa. PUC believes that good cause exists under Section 1.3 of the FCC's rules, 47 C.F.R. § 1.3, for a waiver upon careful review of the facts and the absence of express opposition to granting the Laurel Highland Petition in the record for several reasons.

First, the Laurel Highland Petition demonstrates that the Pa. Company transitioned from being an average schedule Rate of Return carrier (RoR carrier) in October 2011 prior to issuance of the FCC's November 18, 2011 *USF/ICC Transformation Order* at WC Docket No. 10-90 *et al.* (FCC Order). There is no record evidence that the Pa. Carrier's action occurred in anticipation of the significant changes in federal universal service support that were set out in the FCC Order.

Second, the FCC Order provided incumbent carriers a limited recovery of lost revenues from a combination of Access Recovery Charges (ARCs) and Eligible Recovery (ER) for eligible incumbent carriers. Because there were significant changes in the calculation of charges for ROR carriers like the Pa. Company, the FCC established a formula for calculating what would be the "base year" for determining the limited recovery that would arise from revenue adjustments from access and reciprocal compensation arising from the FCC order.

For this Pa. Company (and possibly others), the calculation is premised on the average schedule rate for those companies that were average schedule rate companies in 2011. However, this Pa. Company changed its method for calculating support from the average schedule method to the actual revenue requirement in 2011, the very year that the FCC Order set for calculating support that would include interstate revenue requirements. In short, the difference between the 2011 calculation used for the Base Year of 2011 for this Pa. Carrier under the recovery mechanism is changed by treating the Pa. Carrier as if they were an average schedule company for all of 2011 despite the transition to an actual revenue company that same year. A waiver helps the Pa. Carrier to more accurately

establish its Base Year recovery that will be used going forward. It also supports a private company's business management decisions in a manner consistent with cooperative federalism.

Third, the Pa. Carrier is a small RLEC with an operation in southwestern Pennsylvania that has 4,454 access lines in an area covering approximately 175 square miles and another operation that serves 657 access lines in another 10 square mile area in southwestern Pennsylvania. The Pa. Carrier has been in operation for many years providing service in what is sometimes an economically challenged area of Pennsylvania. Moreover, this Pa. Carrier is one of multiple Pa. Carriers who undertook, and have completed, broadband deployment commitments arising under independent state law in Chapter 30. 66 Pa. C.S. §§ 3011 *et seq.* While the broadband definition in Chapter 30 differs from that set out in the FCC Order, the Pa. PUC believes that granting this very limited waiver better enables the Pa. Carrier to meet the FCC's broadband speed mandates compared to no waiver.

Fourth, the Pa. Company is not claiming that there were reductions in carrier support levels or that the Pa. Company has been adversely impacted by the FCC Order sufficient to seek a waiver under the "total cost and earnings review" provisions set out in the FCC Order. In particular, the Pa. Company notes that a failure to grant the waiver will effectively negate the Pa. Company's rational business plan to transition from average schedule carrier to actual cost schedule carrier. Given the Pa. Company's locus of operation and completion of a state-based broadband commitment of the type, if not the exact equivalent, envisioned in the FCC Order, the Pa. PUC believes that good cause has been established under Section 1.2 of the FCC's rules that does no harm to the implementation of the FCC Order. A grant also furthers the ability of private companies to make rational decisions consistent with federalism.

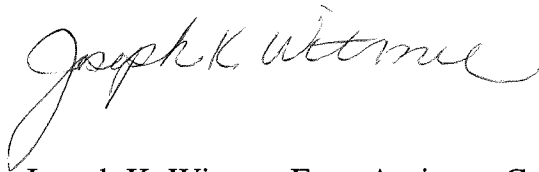
Finally, and importantly, the Pa. PUC notes the absence of express opposition to

this Pa. Company's Laurel Highland Petition. These are important factors the Pa. PUC relies upon in filing an Ex Parte in this proceeding compared to its concerns elsewhere. In other proceedings, the Pa. PUC has expressed a concern that an inundation of ex parte filings in complex or controversial proceedings after closure of the formal comment period can operate to limit a record party's ability to refute challenges or claims to their filed comment when there is a demonstrable inequality of resources or ability to monitor for ex parte challenges.

That is most certainly not the case here. The Pa. PUC's Ex Parte filing asks that the FCC grant the relief requested.

The Pa. PUC appreciates the FCC's decision to treat this matter as a "permit but disclose" proceeding under 47 C.F.R. §§ 1.1200 *et seq.*, thereby permitting this Ex Parte filing to occur in a manner consistent with due process.

Respectfully Submitted On Behalf Of,  
The Pennsylvania Public Utility Commission



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